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C O N F I D E N T I A L SECTION 01 OF 03 TBILISI 000222

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TAGS: PGOV PREL PHUM KDEM GG

SUBJECT: GEORGIA: NON-PARLIAMENTARY OPPOSITION MUST CHOOSE
ON ELECTION CODE REFORM

REF: A. 08 TBILISI 2417

B. 09 TBILISI 168

Classified By: Charge d'Affaires A.I. Kent D. Logsdon for reasons 1.4 (b) and (d).

¶11. (C) Summary: The Georgian Parliament is renewing its efforts to create a working group to reform Georgia's Election Code (ref A) in 2009. Speaker Bakradze has invited significant political parties (inside and outside of Parliament), five local NGOs, the Central Election Commission (CEC), and the international diplomatic community to join the workinggroup. The international community's efforts thus far have been coordinated by the OSCE and National Democratic Institute (NDI). NDI has gotten most, but not yet all, parties to agree to a Code of Conduct for the working group process. International organizations will encourage invited parties to sign the Code of Conduct and participate in the Government-organized working group. Bakradze is meeting with the international community on February 6 to hear suggestions and discuss his next steps and CEC Chairman Levan Tarkhnishvili has expressed his hopes that a new code can be drafted this year while Georgia is not facing imminent elections. Key questions which remain unanswered include who will chair the working group and where it will meet, although thus far Speaker Bakradze appears to be prepared to lead the effort for the Government. Further complicating efforts, are the non-parliamentary opposition's continuing calls for the President's resignation and new elections, the latest of which came on January 29 (ref B). Parliament's leadership seems dedicated to as inclusive a process as possible, but has stated its intention to create the new code even if the non-parliamentary opposition refuses to participate. End summary.

¶12. (C) Comment: Post continues to believe that unscheduled elections this year are unlikely, and that the non-parliamentary opposition's demands for such do not have popular support. The CEC is correct that a current opportunity of (relative) political calm exists to form a new, improved election code before the 2010 elections. There is little reason to delay the group's work, once parties sign the Code of Conduct. It is likely some or most of the non-parliamentary opposition will refuse to participate. Should this happen, it need not be a deal-breaker. If the government continues to encourage real participation by parliamentary opposition, NGOs, and international partners/experts, this could provide significant oversight and transparency to the process. If the result of the working group is indeed an election code in line with international standards -- the intended outcome would be for the Council of Europe's Venice Commission to review any new draft code -- then the process will have achieved its goal. We will continue to encourage the GOG to work with all participants to adopt such a code, but also believe that the non-parliamentary opposition should not be allowed to hijack the process. End comment.

WORKING GROUP INVITEES

¶13. (SBU) Parliament, led by Speaker David Bakradze, is continuing with its plans to create a working group to reform Georgia's Election Code (ref A) in 2009. Bakradze has invited all parties within Parliament, those "qualified parties" outside of Parliament that receive state funding as well as former Speaker Nino Burjanadze's party, to participate in the group. In addition, Bakradze invited five local NGOs to participate, including: Georgian Young Lawyers Association (GYLA), Transparency International (TI) of Georgia, International Society for Free Elections and QGeorgia, International Society for Free Elections and Democracy, New Generation New Initiative, and Public Movement Multi-National Georgia. The Central Election Commission (CEC) will also be a member of the working group. Finally, Bakradze invited representatives of the international diplomatic community to join the working group, likely in the capacity of observers. The international community's efforts thus far have been coordinated by the OSCE and National Democratic Institute (NDI). The OSCE, EU, UNDP, NDI, IFES, and the U.S. Embassy have participated in preliminary meetings to assess whether the political will currently exists for such a process to progress. NDI confirms most, but not yet all, parties have agreed to sign a Code of Conduct and join the working group. Bakradze is meeting with the international community on February 6 to hear suggestions and detail next steps. (Embassy Note. Bakradze's personal involvement in this process was delayed for several weeks after he became seriously ill when he had an allergic reaction to anesthesia during a recent surgical procedure to remove a kidney stone. He has recovered fully. End note.)

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CEC ANXIOUS TO BEGIN

¶14. (C) CEC Chair Tarkhnishvili told embassy officers that a golden opportunity for real reform of the election code exists in 2009. There are no national elections scheduled until local elections take place in 2010. Notwithstanding non-parliamentary calls for protests and the President's resignation, a period of relative political calm should allow such a working group to meet and deliberate without the pressure of political grandstanding. By-elections to fill several vacant seats in Parliament in the fall can provide a better-managed trial run for the new election code, allowing Parliament and the CEC to correct shortcomings well in advance of the 2010 elections. Tarkhnishvili acknowledged that he wants to address the issues raise in OSCE ODIHR reports which have criticized Georgia for "amending the election code" shortly before each election.

¶15. (C) Tarkhnishvili said that he currently envisions two groups; the first should be a political body -- to include all the parties -- that will decide the political issues of the code (how many MPs, how many elected by party list, how to handle the single-mandate majoritarian seats, etc.) He envisioned the second group as a technical group, consisting of Parliament's legal staff, CEC lawyers, and an international expert to draft the code in accordance with the political group's will. Tarkhnishvili told Poloff that he would be open to NGOs participating in, or observing, the technical group. He also asked USAID if they could provide financial assistance for an international expert(s) to ensure that the new electon code meets international standards.

GYLA AND TRANSPARENCY INTERNATIONAL

¶16. (C) GYLA and TI were key watchdogs during recent elections, and remain committed to improving Georgia's future elections. GYLA's coordinator for elections projects, Nino Lomjaria, confirmed that Bakradze had invited her organization to participate in the working group. She said that they were currently waiting for additional information from Parliament on next steps, which she expects in the near

future. Lomjaria agreed a new election code that meets international standards is necessary, and GYLA is looking forward to joining the group. Similarly, TI is also onboard with the project. TI Executive Director Tamuna Karosanidze thought that NGO participation could serve an important oversight role for the public interest. She suggested -- similar to Tarkhnishvili's proposal -- that a technical group including majority and minority faction lawyers from Parliament, as well as NGOs, work together on drafting the code to enforce the political decisions from the main body.

STICKING POINTS

¶ 17. (C) NDI confirms most, but not yet all, parties have agreed to sign a Code of Conduct and then join the working group. All parliamentary parties have agreed, with the possible exception of Jondi Baghaturia's tiny Georgian Troupe. Among non-parliamentary parties, Burjanadze's Democratic Movement-United Georgia, the Labor Party, and the Industrialists all agreed to sign the Code of Conduct. Apparently, the remaining non-parliamentary opposition parties have agreed to the Code of Conduct, but desire additional concessions before joining the working group. Who will chair the working group and where it will meet remain key sticking points for these parties.

NON-PARLIAMENTARY OPPOSITION STALLS

¶ 18. (C) Further complicating efforts are the non-parliamentary opposition's continuing calls for President Saakashvili's resignation and early elections, most recently on January 29 (ref B). This call was joined by most major non-parliamentary opposition parties. It is hard to see how these parties can reconcile these demands with their participation in the working group, whose Code of Conduct ensures that all parties will negotiate and participate in good faith. Furthermore, the Code of Conduct states that parties will refrain from threatening behavior during the process. NDI's Mary O'Hagan opined that such reconciliation is not the international community's responsibility, nor should it be. She said "there is only so much we can do to protect the non-parliamentary opposition from themselves." Tarkhnishvili acknowledged that some of the parties will undoubtedly violate terms of the Code of Conduct. He said that while this is to be expected, once formed, the working group can address any violations.

PARLIAMENT MOVING AHEAD

* Missing Section 003 *
